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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,881	08/20/2003	Robert James Vimini	3839-006-27	5224

7590 07/26/2005

Supervisor, Patent Prosecution Services  
PIPER RUDNICK LLP  
1200 Nineteenth Street, N.W.  
Washington, DC 20036-2412

EXAMINER
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PEARSE, ADEPEJU OMOLOLA

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/643,881	VIMINI ET AL.	
	Examiner	Art Unit	
	Adepeju Pearse	1761	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 5/9/05.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-12 and 29-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

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**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of claims 13-28 in the reply filed on 5/9/05 is acknowledged.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 13-19 and 21-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Berrier et al (U.S. Publication Number 2004/0121054 A1). Berrier et al discloses a meat product inside the internal space of a package ([0008], lines 5-6). The package comprises an inside film layer which could be one layer or more ([0017], lines 1-2). The film layer comprises one or more polymers comprising polyamides such as nylon 66 ([0008] lines 9-11, [0036] lines 1-7). Berrier et al also discloses that a packaged food maybe designed to be placed directly in a microwave oven or conventional oven to heat or cook the food without first removing the package ([0002], lines 1-7). It is inherent that the package will have directions to cook the food depending on the design of the package. Berrier et al also discloses a package that is ovenable that can withstand exposure to temperatures up to 400°F, ([0003], lines 7-10) which is within the applicant's claimed range. Berrier et al discloses a package comprising a bag, which consists of a film ([0083], lines 1-4) and may have a heat-shrinkable attribute ([0077], line 1). Berrier et al

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discloses a bag/pouch with a seal that remains sealed when the food product is cooked (See figure 5).

4. With regard to claim 14, Berrier et al discloses a package consisting essentially of the film ([0083], lines 3-4), which consists of about 100% of one or more polyamides ([0018], lines 7-8). It is inherent that the package could consist essentially of nylon 66.

5. With regard to claim 15, Berrier et al discloses either or both layers of the polyamide may comprise effective amounts of one or more heat stabilizers ([0070], lines 1-3). It is inherent that the layer could be a single layer.

6. With regard to claim 16, Berrier et al discloses a polyamide copolymer comprising at least 50% of nylon 66 ([0041], lines 1-5).

7. With regard to claim 17-18, Berrier et al discloses a film comprising one layer ([0017], lines 1-2) comprising of one or more polyamides in a range of at least about 90% and at least 98% ([0018], lines 1-6). It is inherent that the polyamide could be nylon 66.

8. With regard to claim 19, Berrier et al discloses a film comprising one layer ([0017], lines 1-2), which consists essentially of one or more polyamides ([0018], lines 7-9). Berrier et al also discloses either or both layers of the polyamide may comprise effective amounts of one or more heat stabilizers ([0070], lines 1-3). It is inherent that the polyamide could be nylon 66 and the layer could be a single layer.

9. With regard to claims 21-23, Berrier et al discloses red meat products, poultry and turkey as meat products ([0092], lines 1-4).

10. With regard to claims 24-25, it is inherent that the turkey or poultry is with skin depending on the taste of the customer and the meat product could be marinated in advance

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especially since the product is consumed after cooking in the package. It would be necessary to add savory ingredients to enhance the flavor of the meat product, otherwise consumers will not purchase due to bad taste.

11. With regard to claim 26, Berrier et al discloses a film that is heat sealed ([0084], line 1).

12. With regard to claims 27-28, Berrier et al discloses an unperforated package consisting essentially of a film such that the film is the only packaging structure directly adjacent the internal space of the unperforated package ([0083], lines 6-9). Also, the unperforated package may comprise a bag comprising a film ([0083] lines 3-4) having a thickness of 1mils ([0080] lines 1-2).

### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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15. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berrier et al in view of Hoffman (U.S. Patent Number 3,454,211). Berrier et al failed to disclose a bag having chamfered corners. However, Hoffman teaches a pouch for frozen foods having the bottom ends curved (see figure 3). Hoffman also teaches that the corner could be disposed at a 45° angle or some other appropriate angle to obtain the desired result (Col 2 lines 70-73, Col 3 lines 1-3). It would have been obvious to one of ordinary skill in the art to modify Berrier et al with Hoffman because the curved ends will help to reduce the stress concentration at the corners to prevent the bag from bursting.

### *Conclusion*

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pollok et al (U.S. Publication Number 2003/0021870 A1) discloses a cook-in patch bag and process for using same.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adepeju Pearse whose telephone number is 571-272-8560. The examiner can normally be reached on Monday through Friday, 8.00am - 4.30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Peju Pearse  
Art Unit 1761



MILTON I. CANIO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700